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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	
)	
vs.)	Criminal No. 10-CR-329-F
)	
DANIEL RENTERIA,)	
)	
<i>Defendant.</i>)	

**DEFENDANT RENTERIA'S NOTICE OF INTENT TO FILE MOTION FOR A NEW
TRIAL**

COMES NOW the Defendant, Daniel Renteria, by and through his attorney, Tom Fleener, of Fleener & Vang, LLC, and respectfully provides notice of his intent to file a Motion for a New Trial pursuant to the United States Constitution and Federal Rule of Criminal Procedure R. 33.

1. On November 4, 2011 Mr. Renteria and three other co-defendants were convicted of various charges resulting from a multi-week jury trial. That conviction resulted largely from the testimony of two cooperating co-conspirators, John and Melissa Morgan. During both witnesses' trial testimony the United States offered evidence that 1) John Morgan would receive a fifteen-year BOP sentence; 2) Melissa Morgan would receive an 8-10 year sentence in the

Wyoming Department of Corrections; and 3) that John Morgan would not be receiving a sentence reduction for his cooperation with the United States.

2. On February 6, 2012 after Mr. Renteria was sentenced, the United States filed the very 5k motion that they informed the jury that they were not filing and this Court sentenced Mr. Morgan to ten years in prison, rather than the fifteen year sentence he and the United States had informed the jury that he would be receiving.

3. Sometime later in 2012, Melissa Morgan received a sentence of 4-6 years in the Wyoming DOC, rather than the 8-10 year sentence that both she and the United States had informed the jury she would be receiving.

4. Defendants Renteria, Ordaz and Garcia have appealed their convictions and sentences.

5. It wasn't until drafting his appeal that Defendant Renteria uncovered the United States' actions regarding the Morgans. In his opening brief, Mr. Renteria alleged a Giglio violation because it appeared that the United States had *sub rosa* agreements with the Morgans and these agreements obviously were not disclosed to Mr. Renteria. In the United States' Opening Brief, it argued that not only was there no Giglio violation, but that the record before the Court of Appeals was not sufficient to address the issue and that the appropriate venue to address the issue was through Rule 33 of the Fed. R. Crim. P at the District Court.

6. After reading additional trial transcripts and conducting some rather cursory interviews, Mr. Renteria agreed that the record on appeal was insufficient and that he intended to file a Motion for a New Trial at the District Court.

7. On February 8, 2013 Mr. Renteria filed a Motion to Stay the appeal. The grounds for

seeking a stay were to file a Motion for a New Trial at the District Court. This Motion to Stay was joined by the other Appellants – Mr. Garcia and Mr. Ordaz. Note, immediately after the Court of Appeals received the Joint Motion to Stay, Mr. Garcia’s counsel withdrew and the Court of Appeals appointed new counsel.

8. The Court of Appeals has asked the United States for its position regarding Mr. Renteria seeking a stay. The United States has not yet responded.

9. Mr. Renteria files this Notice to make the District Court aware of this situation. As Mr. Garcia has new counsel it is unknown whether he joins Mr. Renteria. Mr. Renteria’s intentions are to determine whether Mr. Ordaz and Mr. Garcia still wish to join him in his Motion for a New Trial and then to file a Joint Motion.

10. Mr. Renteria will be seeking a status conference to discuss the issue as well as seeking additional discovery.

WHEREFORE Mr. Renteria provides NOTICE.

Respectfully submitted this 22d day of February 2013.

s/Tom Fleener
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 22d day of February, 2013, the foregoing instrument was served by District Court ECF to all parties.

s/Tom Fleener

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